



## **DEPARTMENT OF AGRICULTURE**

### **Rural Utilities Service**

#### **Announcement of Application Deadlines and Requirements for Section 313A**

#### **Guarantees for Bonds and Notes Issued for Electrification or Telephone Purposes**

#### **Loan Program for Fiscal Year (FY) 2017**

**AGENCY:** Rural Utilities Service, USDA

**ACTION:** Notice of Solicitation of Applications (NOSA)

**SUMMARY:** The Rural Utilities Service (RUS), an agency of the United States Department of Agriculture (USDA), announces the application window, requirements and funding for loans that may become available for Fiscal Year (FY) 2017 under the Guarantees for Bonds and Notes Issued for Electrification or Telephone Purposes Program (the 313A Program) authorized under the Rural Electrification Act of 1936, as amended, and related terms. Under the 313A Program, the Federal Financing Bank (FFB) will make loans to the selected applicant(s) and RUS will guarantee the applicant(s)'s repayment of the loans to FFB. Selected applicants may use the proceeds of loan funds made available under the 313A Program to make loans to borrowers for

electrification or telecommunications purposes, or to refinance bonds or notes previously issued by applicants for such purposes. The proceeds of the guaranteed bonds and notes are not to be used by applicants to directly or indirectly fund projects for the generation of electricity.

This notice is based on loan levels contemplated by the FY 17 Continuing Resolution and on information available to the agency at the time of this notice. The final amount of funding made available under this notice could be affected by subsequent Congressional action or subsidy rate calculations. Last year, the RUS obligated \$750 million in loan funds for this program. It is necessary to publish this notice at this time to ensure that applicants have sufficient time to prepare applications and to ensure that the agency has sufficient time and resources to evaluate applications.

**DATES:** Completed applications must be received by RUS no later than 5:00 p.m. Eastern Daylight Time (EDT) on April 28, 2017.

**ADDRESSES:** Applicants are required to submit one original and two copies of their loan applications to the U.S. Department of Agriculture, Rural Utilities Service, Electric Program, ATTN: Amy McWilliams, Management Analyst, 1400 Independence Avenue, SW, STOP 1568, Room 0226-S, Washington, DC 20250-1568.

**FOR FURTHER INFORMATION CONTACT:** For further information contact Amy McWilliams, Management Analyst, 1400 Independence Avenue, SW, STOP 1568, Room

0226-S, Washington, DC 20250-1568. Telephone: (202) 205-8663; or e-mail:

amy.mcwilliams@wdc.usda.gov

## **SUPPLEMENTARY INFORMATION:**

### **Overview**

Federal Agency: Rural Utilities Service, USDA.

Funding Opportunity Title: Guarantees for Bonds and Notes Issued for Electrification or Telephone Purposes for Fiscal Year (FY) 2017.

Announcement Type: Guarantees for Bonds and Notes.

Catalog of Federal Domestic Assistance (CFDA) Number: 10.850

Due Date for Applications: Applications must be received by RUS by 5:00 p.m. Eastern Daylight Time (EDT) on April 28, 2017.

### **Items in Supplementary Information**

I. Funding Opportunity Description.

II. Award Information.

III. Eligibility Information.

IV. Fiscal Year 2017 Application and Submission Information.

V. Application Review Information.

VI. Issuance of the guarantee.

VII. Guarantee Agreement.

VIII. Reporting Requirements.

IX. Award Administration Information.

X. National Environmental Policy Act Certification.

XI. Other Information and Requirements.

XII. Agency Contacts: Website, phone, fax, email, contact name.

XIII. Non-discrimination Statement: USDA non-discrimination statement, how to file a complaint, persons with disabilities.

## **I. Funding Opportunity Description**

### **A. Purpose of the 313A Program.**

The purpose of the 313A Program is to make guaranteed loans to selected applicants (each referred to as “Guaranteed Lender” in this NOSA and in the Program Regulations) that are to be used (i) to make loans for electrification or telecommunications purposes eligible for assistance under the RE Act (defined herein) and regulations for the 313A Program located at 7 CFR part 1720 (also referred to as the “Program Regulations” in this NOSA), or (ii) to refinance bonds or notes previously issued by the Guaranteed Lender for such purposes. The proceeds of the guaranteed bonds and notes are not to be used by the Guaranteed Lender to directly or indirectly fund projects for the generation of electricity.

### B. Statutory Authority.

The 313A Program is authorized by Section 313A of the Rural Electrification Act of 1936, as amended (7 U.S.C. § 940c-1) (the RE Act) and is implemented by regulations located at 7 CFR part 1720. The Administrator of RUS (the Administrator) has been delegated responsibility for administering the 313A Program.

### C. Definition of Terms.

The definitions applicable to this NOSA are published at 7 CFR § 1720.3.

### D. Application Awards.

RUS will review and evaluate applications received in response to this NOSA based on the regulations at 7 CFR § 1720.7, and as provided in this NOSA.

## **II. Award Information**

Type of Awards: Guaranteed Loans.

Fiscal Year Funds: FY 2017.

Award Amounts: RUS anticipates making multiple approvals under this NOSA. The number, amount and terms of awards under this NOSA will depend, in part, on the number of eligible applications and the amount of funds requested. In determining

whether or not to make an award, the RUS will take overall program policy objectives into account.

Application Date: See “SUPPLEMENTARY INFORMATION” herein.

Award Date: Awards will be made on or before September 29, 2017.

Preferred Schedule of Loan Repayment: Amortization Method (level debt service).

### **III. Eligibility Information**

#### A. Eligible Applicants

1. To be eligible to participate in the 313A Program, a Guaranteed Lender must be:

- a. A bank or other lending institution organized as a private, not-for-profit cooperative association, or otherwise organized on a non-profit basis; and
- b. Able to demonstrate to the Administrator that it possesses the appropriate expertise, experience, and qualifications to make loans for electrification or telephone purposes.

2. To be eligible to receive a guarantee, a Guaranteed Lender's bond must meet the following criteria:

- a. The Guaranteed Lender must furnish the Administrator with a certified list of the principal balances of eligible loans outstanding and certify that such aggregate balance is at least equal to the sum of the proposed principal amount of guaranteed bonds to be issued, including any previously issued guaranteed bonds outstanding;

- b. The guaranteed bonds to be issued by the Guaranteed Lender would receive an underlying investment grade rating from a Rating Agency, without regard to the guarantee; and
3. A lending institution's status as an eligible applicant does not assure that the Administrator will issue the guarantee sought in the amount or under the terms requested, or otherwise preclude the Administrator from declining to issue a guarantee.

#### B. Other Eligibility Requirements

Applications will only be accepted from lenders that serve rural areas defined in 7 CFR § 1710.2(a) as (i) Any area of the United States, its territories and insular possessions (including any area within the Federated States of Micronesia, the Marshall Islands, and the Republic of Palau) other than a city, town, or unincorporated area that has a population of greater than 20,000 inhabitants; and (ii) Any area within a service area of a borrower for which a borrower has an outstanding loan as of June 18, 2008, made under titles I through V of the Rural Electrification Act of 1936 (7 U.S.C. 901-950bb). For initial loans to a borrower made after June 18, 2008, the “rural” character of an area is determined at the time of the initial loan to furnish or improve service in the area.

### **IV. Fiscal Year 2017 Application and Submission Information**

#### A. Applications

All applications must be prepared and submitted in accordance with this NOSA and 7 CFR § 1720.6 (Application Process). To ensure the proper preparation of applications,

applicants should carefully read this NOSA and 7 CFR part 1720 (available online at <http://www.ecfr.gov/cgi-bin/text-idx?SID=9295e45c9a0f6a857d800fbec5dde2fb&mc=true&node=pt7.11.1720&rgn=div5>).

## B. Content and Form of Submission

In addition to the required application specified in 7 CFR § 1720.6, all applicants must submit the following additional required documents and materials:

1. Form AD-1047, Certification Regarding Debarment, Suspension and Other Responsibility Matters Primary Covered Transactions. This form contains certain certifications relating to debarment and suspension, convictions, criminal charges, and the termination of public transactions (See 2 CFR part 417, and 7 CFR § 1710.123). This form is available at <http://www.ocio.usda.gov/policy-directives-records-forms/forms-management/approved-computer-generated-forms>;
2. Restrictions on Lobbying. Applicants must comply with the requirements with respect to restrictions on lobbying activities. (See 2 CFR part 418, and 7 CFR § 1710.125). This form is available at <http://www.rd.usda.gov/publications/regulations-guidelines/electric-sample-documents>;
3. Uniform Relocation Act assurance statement. Applicants must comply with 49 CFR part 24, which implements the Uniform Relocation Assistance and Real Property



Acquisition Policy Act of 1970, as amended. (See 7 CFR § 1710.124). This form is available at <http://www.rd.usda.gov/publications/regulations-guidelines/electric-sample-documents>;

4. Federal debt delinquency requirements. This report indicates whether or not the applicants are delinquent on any Federal debt (See 7 CFR § 1710.126 and 7 CFR § 1710.501(a)(13)). This form is available at <http://www.rd.usda.gov/publications/regulations-guidelines/electric-sample-documents>;

5. RUS Form 266, Compliance Assurance. Applicants must submit a non-discrimination assurance commitment to comply with certain regulations on non-discrimination in program services and benefits and on equal employment opportunity as set forth in 7 CFR parts 15 and 15b and 45 CFR part 90. This form is available at <http://www.rd.usda.gov/publications/regulations-guidelines/forms-publications>;

6. Articles of incorporation and bylaws: See 7 CFR § 1710.501(a)(14). These are required if either document has been amended since the last loan application was submitted to RUS, or if this is the applicant's first application for a loan under the RE Act; and

7. Form AD 3030, Representations Regarding Felony Conviction and Tax Delinquency Status for Corporation Applications. Applicants are required to complete this form if

they are a corporation. This form is available at <http://www.ocio.usda.gov/policy-directives-records-forms/forms-management/approved-computer-generated-forms>.

### C. Supplemental Documents for Submission

1. Cash flow projections and assumptions: Each applicant must include five-year pro-forma cash flow projections or business plans and clearly state the assumptions that underlie the projections, demonstrating that there is reasonable assurance that the applicant will be able to repay the guaranteed loan in accordance with its terms (See 7 CFR § 1720.6(4)).
2. Pending litigation statement: A statement from the applicant's counsel listing any pending litigation, including levels of related insurance coverage and the potential effect on the applicant.

## **V. Application Review Information**

### A. Application Evaluation

1. Administrator Review. Each application will be reviewed by the Administrator to determine whether it is eligible under 7 CFR § 1720.5, the information required under 7 CFR § 1720.6 is complete, and the proposed guaranteed bond complies with applicable statutes and regulations. The Administrator can at any time reject an application that fails to meet these requirements.
  - a. Applications will be subject to a substantive review, on a competitive basis, by the Administrator based upon the evaluation factors listed in 7 CFR § 1720.7(b).

2. Decisions by the Administrator. The Administrator will approve or deny applications in a timely manner as such applications are received; provided, however, that in order to facilitate competitive evaluation of applications, the Administrator may from time to time defer a decision until more than one application is pending. The Administrator may limit the number of guarantees made to a maximum of five per year, to ensure a sufficient examination is conducted of applicant requests. RUS will notify the applicant in writing of the Administrator's approval or denial of an application. Approvals for guarantees will be conditioned upon compliance with 7 CFR § 1720.4 and 7 CFR § 1720.6. The Administrator reserves the discretion to approve an application for an amount less than that requested.

B. Independent Assessment.

Before a guarantee decision is made by the Administrator, the Administrator shall request that FFB review the rating agency determination required by 7 CFR § 1720.5(b)(2) as to whether the bond or note to be issued would be below investment grade without regard to the guarantee.

**VI. Issuance of the Guarantee**

The requirements under this section must be met by the applicant prior to the endorsement of a guarantee by the Administrator (See 7 CFR § 1720.8).

## **VII. Guarantee Agreement**

Each Guaranteed Lender will be required to enter into a Guarantee Agreement with RUS that contains the provisions described in 7 CFR § 1720.8 (Issuance of the Guarantee), 7 CFR § 1720.9 (Guarantee Agreement), and 7 CFR § 1720.12 (Reporting Requirements). The Guarantee Agreement will also obligate the Guaranteed Lender to pay, on a semi-annual basis, a guarantee fee equal to 15 basis points (0.15 percent) of the outstanding principal amount of the guaranteed loan (See 7 CFR § 1720.10).

## **VIII. Reporting Requirements**

Guaranteed Lenders are required to comply with the financial reporting requirements and pledged collateral review and certification requirements set forth in 7 CFR § 1720.12.

## **IX. Award Administration Information**

### Award Notices

RUS will send a commitment letter to an applicant once the loan is approved. Applicants must accept and commit to all terms and conditions of the loan which are requested by RUS and FFB as follows:

1. Compliance conditions. In addition to the standard conditions placed on the section 313A Program or conditions requested by the Agency to ensure loan security and statutory compliance, applicants must comply with the following conditions:

- a. Each Guaranteed Lender selected under the 313A Program will be required to post collateral for the benefit of RUS in an amount equal to the aggregate amount of loan advances made to the Guaranteed Lender under the 313A Program.
- b. The pledged collateral shall consist of outstanding notes or bonds payable to the Guaranteed Lender (the Eligible Securities) and shall be placed on deposit with a collateral agent for the benefit of RUS. To be deemed Eligible Securities that can be pledged as collateral, the notes or bonds to be pledged (i) cannot be classified as non-performing, impaired, or restructured under generally accepted accounting principles, (ii) cannot be comprised of more than 30% of bonds or notes from generation and transmission borrowers or (iii) cannot have more than 5% of notes and bonds be from any one particular borrower.
- c. The Guaranteed Lender will be required to place a lien on the pledged collateral in favor of RUS (as secured party) at the time that the pledged collateral is deposited with the collateral agent. RUS will have the right, in its sole discretion, within 14 business days to reject and require the substitution of any Pledged Collateral that the Guaranteed Lender deposits as collateral with the collateral agent. Prior to receiving any advances under the 313A Program, the Guaranteed Lender will be required to enter into a pledge agreement, satisfactory to RUS, with a banking institution serving as collateral agent.
- d. The Guaranteed Lender will be required to maintain pledged collateral at a level that is sufficient to ensure that, upon the occurrence of an event of default, resources will be available to cover (i) principal, interest, fees and (ii) reasonable expenses incurred by RUS as a result of a default or incurred pursuant to RUS's obligation to make related payments to FFB under the RUS Guarantee on all guarantees issued by RUS to FFB for

the benefit of the Guaranteed Lender under Section 313A of the RE Act. The Guaranteed Lender will also be required to agree that the pledged collateral can be used for such purposes.

e. The Guaranteed Lender will be required to agree to not to take any action that would have the effect of reducing the value of the Pledged Collateral below the level described above.

f. Applicants must certify to the RUS, the portion of their Eligible Loan portfolio that is:

(1) Refinanced RUS debt;

(2) Debt of borrowers for whom both RUS and the applicants have outstanding loans;  
and

(3) Debt of borrowers for whom both RUS and the applicant have outstanding concurrent loans pursuant to Section 307 of the RE Act, and the amount of Eligible Loans.

2. Compliance with Federal Laws. Applicants must comply with all applicable Federal laws and regulations.

a. This obligation is subject to the provisions contained in the Consolidated Appropriations Act, 2016, P.L. 114-113, Division A, Title VII, Sections 745 and 746, as amended and/or subsequently enacted for USDA agencies and offices regarding corporate felony convictions and corporate federal tax delinquencies.

b. An authorized official within your organization must execute, date, and return the loan commitment letter and the Assurance Regarding Felony Conviction or Tax Delinquent Status for Corporate Applicants (Form AD-3031) to RUS by September 28,

2017; otherwise, the commitment will be void. This form is available at <http://www.ocio.usda.gov/policy-directives-records-forms/forms-management/approved-computer-generated-forms>.

c. Uniform Commercial Code (UCC) Filing. The Borrower must provide RUS with evidence that the Borrower has filed the UCC financing statement required pursuant to Section 2.05(i) of the Pledge Agreement. Upon filing of the appropriate UCC financing statement, the Guaranteed Lender will provide RUS with a perfection opinion by outside counsel, satisfactory to RUS, which demonstrates that RUS's security interest in the Pledged Collateral under the Pledge Agreement is perfected.

d. Additional conditions may be instituted for future obligations.

## **X. National Environmental Policy Act Certification**

For any proceeds to be used to refinance bonds and notes previously issued by the Guaranteed Lender for the RE Act purposes that are not obligated with specific projects, RUS has determined that these financial actions will not individually or cumulatively have a significant effect on the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321 et seq.) and its implementing regulations at 40 CFR parts 1500-1508. However, for any new projects funded under the 313A Program, applicants must consult with RUS and comply with the Agency regulations at 7 CFR part 1970.

## **XI. Other Information and Requirements**

Applications must contain all of the required elements of this NOSA and all standard requirements as required by 7 CFR part 1720. Additional supporting data or documents may be required by RUS depending on the individual application or financial conditions. All applicants must comply with all Federal Laws and Regulations.

## **XII. Agency Contacts**

A. Website: <http://www.rd.usda.gov/programs-services/all-programs/electric-programs>

B. Phone: (202) 205-8663.

C. Fax: (844) 749-0736.

D. E-mail: [amy.mcwilliams@wdc.usda.gov](mailto:amy.mcwilliams@wdc.usda.gov).

E. Main point of contact: Amy McWilliams, Management Analyst, 1400 Independence Avenue, SW, STOP 1568, Room 0226-S, Washington, DC 20250-1568.

## **XIII. USDA Non-Discrimination Statement**

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs,



or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027. This form is available at <http://www.ocio.usda.gov/policy-directives-records-forms/forms-management/approved-computer-generated-forms> and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

(1) Mail: U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410;

(2) Fax: (202) 690-7442; or

(3) Email: [program.intake@usda.gov](mailto:program.intake@usda.gov).

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Authority: 7 U.S.C. § 940c-1.

Dated: December 20, 2016.

Joshua Cohen  
Deputy Administrator  
Rural Utilities Service

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